

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of )

Amendment to the Commission's )  
Rules Regarding a Plan for )  
Sharing the Costs of Microwave )  
Relocation )

WT Docket No. 95-157

To: The Commission

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**REPLY COMMENTS  
OF  
ENTERGY SERVICES, INC.**

Entergy Services, Inc., ("Entergy") through its undersigned counsel and pursuant to Section 1.415 of the Federal Communications Commission's ("FCC's" or "Commission's") rules, respectfully submits the following Reply Comments in response to the Comments submitted on the Further Notice of Proposed Rule Making ("FNPRM") in the above-captioned proceeding.<sup>1/</sup>

**STATEMENT OF INTEREST**

1. Entergy is one of the largest electric utility holding companies in the country; its service territory covers Louisiana, almost all of Arkansas, a portion of Texas

<sup>1/</sup> Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, WT Docket No. 95-157, First Report and Order and Further Notice of Proposed Rule Making, 61 Fed. Reg. 24470 (May 15, 1996).

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and the western half of Mississippi. Under its umbrella, operating companies operate an integrated electric utility system which serves over 2.3 million customers. Entergy has installed an extensive communications network in support of the operating companies' electric services. An integral part of this network is Entergy's 2 GHz microwave backhaul system.

2. Entergy filed Reply Comments in the first phase of this proceeding urging the Commission not to change any of the transition rules concerning 2 GHz microwave relocation. Moreover, Entergy already has been in contact with PCS licensees regarding relocation of its 2 GHz microwave links. Accordingly, Entergy has an interest in the outcome of this proceeding.

#### **REPLY COMMENTS**

I. **Microwave Incumbents Should be Permitted to Participate in the Cost-Sharing Plan.**

3. The Commission tentatively concluded that microwave incumbents that relocate themselves should be allowed to obtain reimbursement rights and collect reimbursement under the cost-sharing plan from PCS licensees that would have interfered with the relocated link. Entergy fully endorses this proposal. Most commenters agreed that allowing microwave incumbents to self-relocate will expedite the relocation process and will avoid piecemeal relocation

of an incumbent's microwave system.<sup>2/</sup> Entergy is concerned that its microwave system will be relocated in a piecemeal fashion with no opportunity to duplicate to the fullest extent its reliable microwave backhaul system which is an integral part of meeting and maintaining electrical services to its customers. Partial relocation will result in an inadequate communications network, impacting the safety and reliability of the system and overall electric distribution system. Entergy believes that allowing microwave incumbents to self-relocate will significantly reduce the possibility of partial relocation and will actually speed up the relocation process. Entergy supports the Comments of UTC and Santee Cooper in this regard.<sup>3/</sup>

4. Entergy opposes, however, the Comments of BellSouth which would preclude a microwave licensee from gaining reimbursement rights. BellSouth Personal Communications, Inc. ("BellSouth") argued that a unilateral relocation agreement is unfair and creates no obligation for the microwave incumbent to reach a relocation agreement.<sup>4/</sup>

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<sup>2/</sup> Utilities Telecommunications Council ("UTC") at 6, South Carolina Public Service Authority ("Santee Cooper") at 4-5. See also, Personal Communications Industry Association ("PCIA") at 4-9 and Cellular Telecommunications Industry Association ("CTIA") at 7-8 (both agreeing to incumbent microwave self-relocation with some safeguards).

<sup>3/</sup> UTC at 6 and Santee Cooper at 4.

<sup>4/</sup> BellSouth at 7.

Entergy disagrees. On the contrary, Entergy believes that microwave incumbents have more of an incentive to negotiate with the PCS licensee because presumably the negotiations could yield more benefits to them. In self-relocation, the incumbent is limited by the amount of financial resources it has available to it.

5. The Commission expressed concern of whether a microwave incumbent would minimize expenses in self-relocating. CTIA and PCIA expressed similar concerns.<sup>5/</sup> Nevertheless, Entergy agrees with UTC that the same rights and obligations imposed on PCS licensees in the cost-sharing plan should be applicable to self-relocating microwave incumbents.<sup>6/</sup> In this manner, each entity seeking reimbursement would be subject to the same procedures. Contrary to PCIA's Comments, the reimbursement cap is a deterrent to overspending in the self-relocation process. First, microwave incumbents have been under the understanding that costs for relocation would be borne by the PCS licensee, and microwave incumbents have not earmarked or raised additional funds for self-relocation since this was not an option prior to this FNPRM. It is highly unlikely, therefore, that microwave incumbents will be excessive in self-relocation. The Comments of the

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<sup>5/</sup> CTIA at 7-8 and PCIA at 4-9.

<sup>6/</sup> UTC at 7.

Association of Public-Safety Communications Officials International, Inc. ("APCO") sustain this point.<sup>7/</sup>

6. Second, Entergy agrees with UTC's assessment that the incumbent will be taking a risk to self-relocate because the link may not interfere with any PCS operations, and no reimbursement is possible under this scenario.<sup>8/</sup> Such risk will also act as a safeguard to prevent excessive spending on self-relocation. Entergy, from experience as a regulated public utility holding company, also agrees that other business and regulatory constraints can limit relocation expenditures.<sup>9/</sup> As an additional safeguard, Entergy supports giving the microwave incumbent a rebuttable presumption that the amount expended for self-relocating a link is reasonable if it does not exceed the lesser of: (1) the reimbursement cap; or (2) the average relocation cost for the PCS-relocated links.<sup>10/</sup>

II. The Commission Must Not Change the Voluntary and Mandatory Negotiation Periods for the Remaining PCS Blocks.

7. In its FNPRM, the Commission sought comment on whether it should adjust the negotiation periods for the

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<sup>7/</sup> APCO at 2 (note 3).

<sup>8/</sup> UTC at 7.

<sup>9/</sup> Id. at 8.

<sup>10/</sup> Id.

remaining PCS blocks. Specifically, the Commission is considering shortening the voluntary period by one year and lengthening the mandatory period by one year. Entergy opposes any changes to the negotiation periods, but especially the shortening of the voluntary negotiation period. Accordingly, Entergy supports the views of those commenters who believe that the voluntary and mandatory negotiation periods must remain unaltered for the C, D, E, and F PCS blocks.<sup>11/</sup> Even a PCS licensee, BellSouth Personal Communications, Inc., agrees that the voluntary and mandatory negotiation should not be adjusted for the remaining PCS blocks.<sup>12/</sup> BellSouth indicated that because of the FCC's allocation scheme for broadband PCS, along with the characteristics of the incumbent microwave environment and the different auction dates, adjusting the negotiation periods for the remaining PCS blocks is unnecessary.<sup>13/</sup> BellSouth concluded that many of the links will be relocated by the time the D, E, and F PCS licenses are issued, and therefore, there is no reason to adjust the length of the

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<sup>11/</sup> UTC at 2-5, APCO at 2-7, Los Angeles County Sheriff's Department and the County of Los Angeles, Internal Services Department ("LA County") at 2-4 and Santee Cooper at 2-5.

<sup>12/</sup> BellSouth at 2-6.

<sup>13/</sup> BellSouth at 3.

voluntary and mandatory negotiation periods.<sup>14/</sup> Entergy agrees.

8. Entergy is currently in relocation negotiations, and is finding the voluntary negotiation period to be both workable and beneficial. Even the PCS community concedes that the relocation negotiation process is generally successful and progressing as the Commission anticipated.<sup>15/</sup> Consequently, Entergy agrees with UTC that the relocation process should be allowed to work and should not be modified at this time.<sup>16/</sup> The Commission must find it compelling that some incumbents have not been approached by PCS licensees for relocations, even those in urban areas (where early deployment is expected), thereby indicating that PCS licensees themselves are not ready to deploy their services.<sup>17/</sup> Accordingly, the Commission must reject those comments that advocate for a change in the negotiation periods (including elimination of the voluntary period altogether).<sup>18/</sup>

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<sup>14/</sup> BellSouth at 5.

<sup>15/</sup> PCIA at 2.

<sup>16/</sup> UTC at 3.

<sup>17/</sup> UTC at 3-4.

<sup>18/</sup> See e.g., Omnipoint Corporation at 1, American Personal Communications ("APC") at 1-2 and CTIA at 2.

**CONCLUSION**

Entergy opposes any adjustment to the voluntary and mandatory negotiation periods because such changes will disadvantage microwave incumbents in the negotiating process. Entergy does endorse, however, the Commission's proposal to allow microwave incumbents to self-relocate and receive reimbursement from interfering PCS licensees.

**WHEREFORE THE PREMISES CONSIDERED,** Entergy Services, Inc. respectfully requests that the Commission act upon this Further Notice of Proposed Rule Making in a manner consistent with the views expressed herein.

Respectfully submitted,

**ENTERGY SERVICES, INC.**

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